

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JETHRY WHITEHURST,  
Plaintiff,

v.

JO ANNE B. BARNHART, Commissioner,  
Social Security Administration,  
Defendant.

Case No. C04-5668RBL

REPORT AND  
RECOMMENDATION

Noted for May 6, 2005

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before this court on plaintiff's failure to inform the court as to whether he intends to prosecute this matter. Because plaintiff has so failed to respond, the undersigned recommends the court dismiss this case without prejudice for failure to prosecute.

DISCUSSION

On January 12, 2005, the court ordered plaintiff to inform it in writing by no later than March 13, 2005, as to whether he intended to prosecute this matter on his own behalf or obtain representation from another attorney. (Dkt. #10). The court warned plaintiff that failure to so respond to the court by that date would be deemed a failure to properly prosecute this matter, and the court would recommend dismissal of this action. To date, plaintiff has not responded to the court's order.

CONCLUSION

Because plaintiff has failed to respond to the court's January 12, 2005 order (Dkt. #10), the undersigned recommends the court dismiss his complaint without prejudice for failure to prosecute.

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedures, the parties shall have ten (10) days from service of this Report and Recommendation to file written objections thereto. See also Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed set this matter for consideration on **May 6, 2005**, as noted in the caption.

Dated this 12th day of April, 2005.

/s/ Karen L. Strombom  
KAREN L. STROMBOM  
United States Magistrate Judge